IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BISCOTTI INC.,	§	
	§	
Plaintiff,	§	Case No. 2:13-CV-01015-JRG-RSP
	§	
v.	§	
	§	
MICROSOFT CORP.,	§	
	§	
Defendant.	§	

ORDER

Before the Court are the parties' objections to Magistrate Judge Payne's orders and recommendations on pretrial motions. For nondispositive matters referred to a magistrate judge, the district court "must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). For dispositive matters, the district court must "determine de novo any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1)(C). "The district judge may accept, reject, or modify the recommend disposition." Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1)(C).

Applying these standards, the Court concludes that the objections to Magistrate Judge Payne's nondispositive orders fail to identify clear error or a conclusion that is contrary to law. Similarly, upon de novo review of the properly objected to portions of Judge Payne's findings, conclusions, and recommendations on dispositive matters, the Court adopts the recommended dispositions without modification.

Accordingly, **IT IS ORDERED** as follows:

(1) Biscotti Inc.'s Objections to Aspects of Claim Construction Order (Dkt. No. 121) are **OVERRULED**.

(2) Biscotti Inc's Objections to One Aspect of the Order of the Magistrate Judge on Microsoft's Motion to Exclude Testimony of Dr. Perryman (Dkt. No. 244) are **OVERRULED**.

(3) Microsoft's Objections to the Order of the Magistrate Judge on Microsoft's Motion to Exclude Testimony of Dr. Perryman (Dkt. No. 229) are **OVERRULED**.

(4) Microsoft's Objections to the Order of the Magistrate Judge On Biscotti's Motion to Exclude the Testimony and Opinions of Ambreen Salters Regarding the HDMI Licenses (Dkt. No. 241) are **OVERRULED**.

(5) Magistrate Judge Payne's Report and Recommendation on Biscotti Inc's Motion for Summary Judgment of Improper Incorporation by Reference (Dkt. No. 191) is **ADOPTED**.

(6) Biscotti Inc's Motion for Summary Judgment of Improper Incorporation by Reference (170) is **DENIED**.

(7) Microsoft Corporation's Objections to the Report and Recommendation on Biscotti's Motion for Summary Judgment of Estoppel of Microsoft's Invalidity Art and Theories Based on a Final Written Decision in Microsoft's Inter Partes Review Petitions (Dkt. No. 224) are **OVERRULED**.

(8) Magistrate Judge Payne's Report and Recommendation on Biscotti Inc's Motion for Summary Judgment of Estoppel of Defendant Microsoft's Invalidity Art and Theories Based on Final Written Decision in Microsoft's Inter Partes Review Petitions (Dkt. No. 191) is **ADOPTED**.

(9) Biscotti Inc's Motion for Summary Judgment of Estoppel of Defendant Microsoft's Invalidity Art and Theories Based on Final Written Decision in Microsoft's Inter Partes Review Petitions (Dkt. No. 171) is **GRANTED-IN-PART**.

(10) Microsoft Corporations Objections to the Report and Recommendation on Microsoft's Motion for Partial Summary Judgment of Non-Infringement (Dkt. No. 252) are **OVERRULED**.

(11) Magistrate Judge Payne's Report and Recommendation on Microsoft Corporation's Motion for Partial Summary Judgment of Non-Infringement (Dkt. No. 228) is **ADOPTED**.

(12) Microsoft Corporation's Motion for Partial Summary Judgment of Non-Infringement (Dkt. No. 173) is **DENIED**.

(13) Microsoft Corporation's Objections to the Order of the Magistrate Judge on Microsoft's Motion to Exclude the Dhar Survey and All Testimony of Dr. Dhar (Dkt. No. 226) are **OVERRULED**.

(14) In light Magistrate Judge Payne's orders (Dkt. Nos. 203 and 242) resolving the disputes concerning Biscotti Inc.'s damages opinions, Microsoft Corporation's Motion for Summary Judgment on Damages (Dkt. No. 168) is **DENIED AS MOOT**.

So ORDERED and SIGNED this 2nd day of June, 2017.

RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE